

**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK**

DXC TECHNOLOGY COMPANY,

Petitioner,

v.

**HEWLETT PACKARD ENTERPRISE
COMPANY,**

Respondent.

19-cv-7954 (VEC)

**APPLICATION FOR A SEALING
ORDER**

Following a confidential arbitration between Petitioner DXC Technology Company ("DXC") and Respondent Hewlett Packard Enterprise Company ("HPE") captioned *DXC Technology Company v. Hewlett Packard Enterprise Company*, CPR File No. G-18-28-G-AA (the "Arbitration"), on August 15, 2019, a panel of three arbitrators issued a final award (the "Award"). As is customary in arbitration, the parties' arbitration agreement provides that the Arbitration and Award would be kept confidential. (*See* Declaration of Adam B. Shamah in Support of the Application for a Sealing Order ("Declaration") ¶ 4.) The arbitration agreement further requires the parties to request that the court maintain all filings under seal in connection with proceedings to confirm the Award. (*See id.*) In addition, the protective order in the Arbitration protects the confidentiality of materials designated as confidential ("Confidential Arbitration Material"), many of which are quoted, summarized, and described in the Award. (*Id.* ¶¶ 5-6.) DXC intends to petition the Court to confirm the Award, and therefore respectfully requests an order from this Court placing the following documents under seal:

1. DXC's Petition to Confirm Arbitration Award (the "Petition")

2. The Declaration of Adam B. Shamah in Support of the Petition, and its accompanying exhibits, to wit: the Award (Exhibit 1); the Separation and Distribution Agreement between DXC and HPE dated May 24, 2016, as amended (Exhibit 2); and the Dispute Resolution Agreement between DXC and HPE entered on March 23, 2018 (Exhibit 3);
3. DXC's Memorandum of Law in Support of the Petition;
4. DXC's Notice of Petition and Rule 7.1 Statement;
5. This Application for a Sealing Order; the Declaration and its accompanying exhibits; the Proposed Sealing Order; and
6. All other filings in the above-referenced action.

While DXC recognizes that federal courts are open, public forums, notwithstanding the strong presumption of public access to judicial documents, courts in this District have on occasion sealed awards issued in private commercial arbitrations that were submitted in connection with petitions to confirm or vacate the awards. *See ITT Indus., Inc. v. Rayonier, Inc.*, No. 05 Civ. 4322 (CLB), 2005 WL 1744988, at *5 (S.D.N.Y. July 20, 2005); *AXA Versicherung AG v. New Hampshire Insurance Co.*, No. 12 Civ. 6009 (JSR), Order, Dkt. 1 (S.D.N.Y. Aug. 6, 2012); *Stolz Nielsen SA v. Animalfeeds International Corp.*, No. 06 Civ. 420 (JSR), Order, Dkt. 2 (S.D.N.Y. Jan. 20, 2006); *Redeemer Committee of Highland Credit Strategies Funds v. Highland Capital Management L.P.*, No. 16. Civ. 2668 (JSR), Sealing Order, Dkt. 4 (S.D.N.Y. April 11, 2016). The Second Circuit has held that a district court presiding over a motion to vacate did not abuse its discretion "by placing the entire file, except for the court's opinions and orders, under seal" where documents were subject to confidentiality agreements in an arbitration. *DiRussa v. Dean Witter Reynolds Inc.*, 121 F.3d 818, 826 (2d Cir. 1997).

To maintain the confidentiality of the Arbitration, the Award, and Confidential Arbitration Material, and pursuant to its arbitration agreement, DXC submits this application to file the materials identified above under seal. This Application is accompanied by a Proposed Sealing Order and the Declaration of Adam B. Shamah in Support of this Application.

Dated: August 26, 2019
New York, New York

Respectfully submitted,

LATHAM & WATKINS LLP



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